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Office Memorandum • UNITED STATES GOVERNMENT

TO : Chief, Fiscal Division

DATE: 31 August 1950

FROM : Chief, Payroll Branch

SUBJECT: Overtime, Holiday and Night Differential
Payments to CIA Employees

1. This office has become concerned over the possibility of claims arising from payments of overtime accomplished after enactment of P.L. 429. The uncertainty of the correctness of present payments stems from an examination of the basic law (PL 106 79th Congress and Amendments thereto) providing for payment of additional compensation such as overtime, holiday pay, etc. The cited act provides for payment of overtime at the rates presently used to all officers and employees in or under the Executive Branch of the Government. However, certain employees were exempt from the major provision of the act with the pertinent class of employees for consideration at this time covered by Section 102 (c) which states:

"This Act, except Sections 203 and 607, shall not apply to employees whose basic compensation is fixed and adjusted from time to time in accordance with prevailing rates by Wage Boards or similar Administrative Authority serving the same purpose."

2. Public Law 429, 81st Congress, cited as the Classification Act of 1949, exempts CIA from its provisions; therefore, the responsibility of prescribing payment standards for CIA employees is vested in the head of the Agency. The Director has delegated to the Personnel Officer the authority to determine and administer the wage program of agency employees. Inasmuch as the authority to administer the agency wage program appears to constitute a wage fixing authority, Section 203 (PL 106) would be applicable in the payment of overtime compensation. Section 203 (PL 106) states:

"Employees whose basic rate of compensation is fixed on an annual or monthly basis and adjusted from time to time in accordance with prevailing rates by Wage Boards or similar Administrative Authority serving the same purpose shall be entitled to overtime pay in accordance with the provisions of Section 23 of the Act of March 28, 1934 (U.S.C. 1940 edition, Title 5, section 673c)" (Our underscoring)

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3. Title 5, Section 673c provides:

".....That the regular hours of per week; and all overtime shall be less than time and one half." (und

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4. It should be noted that the purpose of this section was intended to apply to those trades and occupations whose compensation was not fixed by the Classification Act. In addition the Civil Service Commission in issuing Federal Employees Pay Regulations (Chapter Z-1) (Part 25) of the Federal Personnel Manual), which was published in the Federal Register on 18 August 1950, exempted officers and employees of the CIA from the overtime, night differential and holiday pay provisions of its regulations.

5. Since the Civil Service Commission has excluded CIA from its regulations, and in view of the fact that no agency regulations fully covering the situation have been issued, it is requested that a decision be reached concerning the propriety of payments already accomplished and that appropriate instructions, if necessary, be issued as authority for effecting subsequent payments.



Chief, Payroll Branch

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1st Endorsement

TO: Chief, Administrative Staff

FROM: Chief, Fiscal Division

1. Since the subject under discussion involves several laws as well as regulations and policy matters, it appears necessary that it be referred as follows:

a. To the General Counsel's Office for an opinion as to the legality of payments previously accomplished and those that are to be effected hereafter and

b. That a proposed instruction be prepared based on the opinion rendered and coordination with

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| (1) Personnel Office | (3) The Budget Office and |
| (2) Special Support Staff | (4) The Administrative Staff |

2. Inasmuch as approximately 40% of the organization is currently performing overtime services (bi-weekly) and since we are required to maintain prompt payments, early action on this submission will be appreciated.

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